

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

MICHAEL E. WOLFE,)	
)	
Plaintiff,)	
)	
v.)	CIV-2020- 325-KEW
)	
BIG IRON AUCTION COMPANY,)	Age Discrimination Case
)	
Defendant.)	Jury Trial Demanded

COMPLAINT

COMES NOW THE PLAINTIFF and alleges that:

PARTIES

1. The Plaintiff is Michael Wolfe, an adult resident of the City of Ada, Pontotoc County, Oklahoma.
2. The Defendant is Big Iron Auction Company, doing business in Pontotoc County and elsewhere in Oklahoma, and having twenty (20) or more employees such that it is a covered employee under the ADEA.

JURISDICTION AND VENUE

3. This is a cause of action for discrimination based on age as prohibited by the ADEA and by state law. Jurisdiction over the federal claims is vested pursuant to 29 U.S.C. 626(c) and 28 U.S.C. § 1331. Jurisdiction over the state law claims under 25 O.S. § 1101, *et seq.*, is vested under 28 U.S.C. § 1367.
4. All of the actions complained of occurred in Pontotoc County, Oklahoma, wherefore, venue is proper in this Court under 28 U.S.C. § 1391(b).

STATEMENT OF FACTS

5. Mike Wolfe was a male employee over the age of forty (40) years old.

6. Defendant is an employer which at all times had twenty (20) or more employees during each week of the calendar years before, during and after the termination of the Plaintiff.
7. Plaintiff was hired in June 2010. Since September 2018, Plaintiff's position was Strategic Accounts Manager.
8. When placed in the position of Strategic Accounts Manager, Plaintiff's accounts were taken from him resulting in a dramatic reduction of Plaintiff's earnings.
9. On April 19, 2019, the CEO/President of the company (Andy Dyrn, 50's) told Plaintiff that he would not be considered for the Regional Manager position because Plaintiff was too old. Plaintiff reported this age comment to the company and, thereafter, was excluded from all company-wide meetings.
10. In June 2019, Plaintiff again inquired about the open Regional Manager position. Plaintiff was told that he could apply for the position, but that Plaintiff would not be selected.
11. On December 17, 2019, Plaintiff received an email terminating his employment effective January 3, 2020.
12. The claimed reason for Plaintiff's termination was performance, however, Plaintiff's performance was better than other younger employees. Also, the Defendant complained that the growth in certain territories was not as high as desired, but Plaintiff had been previously removed from those areas when Plaintiff was made Strategic Accounts Manager and, therefore, had no control over those areas.
13. The reason for Plaintiff's termination was his age (67), and his complaint of age discrimination.

14. Age discrimination and retaliation for complaining of age discrimination is contrary to the ADEA and to the OADA.
15. As the direct result of such unlawful discrimination and retaliation, Plaintiff suffered lost earnings past and continuing into the future.
16. Defendant's actions were willful such that Defendant is liable for an amount of liquidated damages equal to his lost earnings through the date of trial.
17. Under the OADA, the Plaintiff is entitled to liquidated damages without a showing of willfulness.
18. Plaintiff filed a charge of discrimination on or about February 12, 2020.
19. More than sixty (60) days has passed since the filing of the charge of discrimination and Plaintiff is entitled to proceed with his case.

WHEREFORE, Plaintiff prays that he be awarded all of his actual damages together with liquidated damages, costs and attorney's fees and any such addition relief the court may deem appropriate.

RESPECTFULLY SUBMITTED THIS 18th DAY OF SEPTEMBER, 2020.

s/Mark Hammons
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Jury trial demanded
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